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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

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OFFICE OF PETITIONS

In re Application of :
Christopher J. Cormack :
Application No. 10/687,987 : DECISION ON PETITION
Filed: October 17, 2003 :
Attorney Docket No.: 42P17666 :

This is a decision in response to the petition, filed February 1, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(a). This is also a decision on the simultaneously filed petition to withdraw the holding of abandonment, which is treated under the provisions of 37 CFR 1.181 (no fee).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to a non-final Office action mailed July 9, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was subsequently mailed on March 18, 2009.

Petitioner argues that the abandonment should be withdrawn. Petitioner explains that, while the Office action dated July 8, 2008 was addressed to the address of record, the Office action was not received.

A review of the written record does indicate an irregularity in the mailing of the Notice of July 9, 2008. In this regard, the non-final Office action in question was returned to the U.S. Patent and Trademark Office by the U.S. Postal Service for some unknown reason on July 10, 2008. Therefore the record supports a conclusion that the non-final Office action was not received by petitioner.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition under 37 CFR 1.137(a) is unnecessary, the \$540 petition fee submitted with the petition is being refunded to counsel's deposit account.

This application is being referred to the Technology Center AU 2423 for appropriate action in the normal course of business on the reply received February 1, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions